

The Commonwealth of Massachusetts  
OFFICE OF THE DISTRICT ATTORNEY  
FOR THE NORFOLK DISTRICT



45 Shawmut Road • Canton • Massachusetts • 02021

Telephone: 781-830-4800

Fax/Faxline: 781-830-4801

Michael W. Morrissey  
Norfolk District Attorney

FACSIMILE

To: Julk Nassif From: AOA Mkt M Dmngf  
Fax: 617 983 6662 Pages: 5 (Including Cover)  
Phone:  Date: 6/25/12  
Re:  CC:

Urgent  For Review  Please Comment  Please Reply  Please Recycle

Rule 17 motion for this Thursday June 28.

CWV. [REDACTED]

The information contained in this message and any attachment(s) is privileged and confidential information, intended only for the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us at the telephone number listed above immediately.

LAW OFFICE OF  
THOMAS J. IOVIENO  
755 EAST BROADWAY  
SOUTH BOSTON, MASSACHUSETTS 02127  
617.464.3300  
FAX 617.464.3302

June 22, 2012

Criminal Clerk's Office  
Norfolk Superior Court  
650 High Street  
Dedham, MA 02026

Re: Commonwealth  
v. [REDACTED]  
Norfolk Superior Court  
Crim.No: [REDACTED]

Dear Sir or Madam:

Enclosed for filing please find the following documents:

1. Defendant's Motion for the Issuance of a Mass. R. Crim. Pro. 17 Subpoena re:  
State Drug Lab

A hearing on this matter is currently scheduled for Thursday June 28, 2012 @ 2:00 p.m. Please file these documents with the rest of the papers in this matter.

Should you have any questions, please do not hesitate to call. Thank you for your cooperation in this matter.

Very truly yours,

Thomas J. Iovieno

TJI/cle  
enclosures  
cc: Atty. Matthew McDonough  
Atty. Ethan Yankowitz

## COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

SUPERIOR COURT  
CRIMINAL NO.  
[REDACTED]

COMMONWEALTH

v.  
[REDACTED]

MOTION PURSUANT TO MASS. R. CRIM. PRO. 17(a)(2) FOR ISSUANCE OF A  
SUBPOENA FOR THE PRODUCTION OF RECORDS  
FROM THE STATE DRUG LAB

Now comes the Defendant in the above matter, and pursuant to Mass. R. Crim. Pro. 17 (a) (2) hereby respectfully requests that the court order the Commonwealth of Massachusetts Executive Office of Health and Human Services on 250 Washington Street, Boston, MA 02108 to produce the any and all records specifically as set forth in the attached Motion for Discovery advanced by the Defendant and previously filed with the court on April 2, 2012. Defendant requests that the court order issuance of a summons for the production of these records prior to trial so as to provide Defendant with an opportunity to review and copy said records for use in the defense of the complaint as the information contained within said records may lead to exculpatory evidence and/or necessary to review for trial preparation.

As grounds thereof, the Defendant relies upon the reason advance in the previously filed discovery motion and further submits that a Mass. R. Crim Pro. 17 motion is not necessary in this matter as the documents and information is within the "care, custody and control" of the Norfolk County District Attorney's Office which routinely provides State Drug Lab records as part of its normal discovery process. The Defendant has filed this motion at the request of the Norfolk District Attorney's Office and Defendant is not to be deemed waiving that the requested discovery is in the District Attorney's "care, custody and control".

Defendant further requests disclosure and access to this information far enough in advance of trial and motions date. Defendant relies upon the affidavit submitted in support.

WHEREFORE, Defendant requests that the court order that the court order the Commonwealth of Massachusetts Executive Office of Health and Human Services on 250 Washington Street, Boston, MA 02108 to produce the any and all records specifically as set forth in the previously filed Motion for Discovery. The Defendant further requests that he be entitled to review and copy said records prior to trial.

Respectfully Submitted,  
Wendell Cole,  
By his Attorney,

Thomas J. Iovieno, Esq.  
755 East Broadway  
South Boston, MA 02127  
(617) 464-3300  
BBO# 553361

Dated: 6/22/12

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

SUPERIOR COURT  
CRIMINAL NO.  
[REDACTED]

COMMONWEALTH

v.

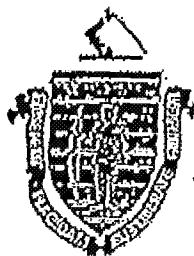
[REDACTED]

ORDER

It is hereby ORDERED that the Commonwealth of Massachusetts Executive Office of Health and Human Services produce any and all documents set forth in the attached Exhibit "1" to the Law Office of Thomas J. Lovieno, 755 East Broadway, South Boston, MA 02127.

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Justice of the Superior Court



The Commonwealth of Massachusetts  
OFFICE OF THE DISTRICT ATTORNEY  
FOR THE NORFOLK DISTRICT

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Faxsimile: 781-830-4801



Michael W. Morrissey  
Norfolk District Attorney

## FACSIMILE

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Phone: \_\_\_\_\_ Date: 6/25/12  
Re: \_\_\_\_\_ CC: \_\_\_\_\_

Urgent  For Review  Please Comment  Please Reply  Please Recycle

Rule 17 motion for this Thursday June 28.

(WV) [Redacted]

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# The Commonwealth of Massachusetts

## Office of the District Attorney FOR THE NORFOLK DISTRICT

Michael W. Morrissey  
District Attorney

45 Shawmut Road  
Canton, MA 02021  
(781) 830-4800  
(781) 830-4801 (fax)

February 14, 2012

Thomas Jovieno, Esq.  
755 East Broadway  
South Boston, MA 02127

Re: CW v. [REDACTED]

Dear Attorney Jovieno:

Enclosed please find a letter my office received from the Department of Public Health regarding a possible breach of protocol with respect to some drug samples. While not named in the DPH letter, the chemist being investigated is Annie Dookhan, the chemist who analyzed the substances in our case. It is the understanding of this office that the chemist may have directly taken evidence from the evidence locker for testing without properly signing for the same and/or obtaining the co-signature of the evidence officer.

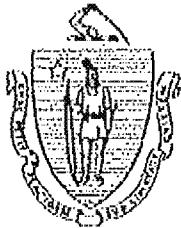
The substances involved in our case are not among the ninety samples mentioned in the DPH letter. I have not been provided any indication that the testing in our case was compromised in any way. I share with you the letter out of an abundance of caution to notify you of the DPH investigation.

If I receive any further information about this matter I will forward it to you immediately. If you have any questions, please contact me at (781) 830-4800, ext. 281.

Very truly yours,

Matthew J. McDonough  
Assistant District Attorney

Enclosure



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
250 Washington Street, Boston, MA 02108-4619

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

JUDYANN BIGBY, MD  
SECRETARY

JOHN AUERBACH  
COMMISSIONER

February 1, 2012

Michael W. Morrissey, Norfolk District Attorney  
Norfolk District Attorney's Office  
45 Shawmut Road  
Canton, MA, 02021

Dear District Attorney Morrissey,

I am writing to inform you that we are currently investigating a possible breach of protocol with respect to ninety drug samples tested at the William A. Hinton State Laboratory Institute. These ninety samples were received exclusively from Norfolk County and assigned for analysis on the same day. Attached is a list of the control numbers for the samples identified in the investigation.

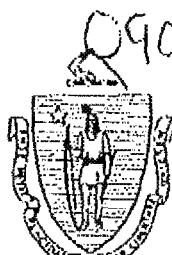
At this time, there is no evidence that this had an impact on the integrity of the samples or the accuracy of the sample analysis. Please be assured that measures were immediately taken to ensure proper compliance with protocol procedures.

Additional information will be provided upon completion of the investigation.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Han".

Linda Han, MD, MPH, Director  
Bureau of Laboratory Sciences



DEVAL L. PATRICK  
Governor  
TIMOTHY P. MURRAY  
Lt Governor  
JUDYANN BIGBY, MD  
Secretary  
JOHN AUERBACH  
Commissioner

Q9048165 The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
William A. Hinton State Laboratory Institute  
305 South Street, Jamaica Plain, MA 02130  
617-983-6622

DATE RECEIVED: 11/05/2009  
DATE ANALYZED: 05/17/2010

NO. [REDACTED]

I hereby certify that the Substance  
Contained in 15 plastic bags  
Submitted by Detective BRIAN COEN of the Quincy Police Dept.

MARKED: [REDACTED]

Has been examined with the following results:

The substance was found to contain:

Heroin, (diacetylmorphine) as defined in Chapter 94 C, Controlled Substance Act, Section 31, Class A.

The identification of the contents of the 15 plastic bags was determined by analysis of a representative sample of 2 plastic bags. The net weight of the 15 plastic bags was derived from the average weight of the sampled plastic bags.

NET WEIGHT: 2.90 grams

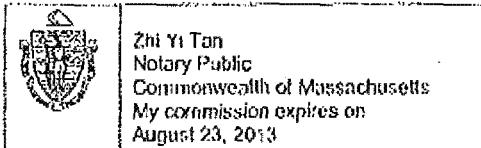
DEFENDANT: [REDACTED]

ASSISTANT ANALYST

Michael Lawler

Annie Dookhan

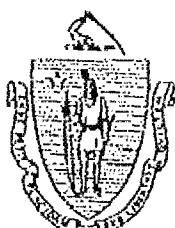
On this day, May 27, 2010, before me, the undersigned notary public, personally appeared the above signed subscriber(s), having proved to me through Department of Public Health documentation to be the person(s) whose name(s) is/are signed on this certificate and to be (an) assistant analyst(s) of the Department of Public Health, and who swore to me that the contents of this document are truthful and accurate to the best of his/her/their knowledge and belief.



Zhi Yi Tan, NOTARY PUBLIC  
My commission expires on August 23, 2013

Chapter 111, Section 13 of the General Laws

This certificate shall be sworn to before a Justice of the Peace or Notary Public, and the jurat shall contain a statement that the subscriber is the analyst or assistant analyst of the department. When properly executed, it shall be prima facie evidence of the composition, quality, and the net weight of the narcotic or other drug, poison, medicine, or chemical analyzed, and the court shall take judicial notice of the signature of the analyst or assistant analyst, and of the fact that he/she is such.



DEVAL L. PATRICK  
Governor  
TIMOTHY P. MURRAY  
Lt Governor  
JUDYANN BIGBY, MD  
Secretary  
JOHN AUERBACH  
Commissioner

The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
William A. Hinton State Office Building  
305 South Street, Jamaica Plain  
617-983-  
*Neil McDonough*

11/05/2009  
DATE ANALYZED: 05/17/2010

NO. [REDACTED]

I hereby certify that the substance  
Contained in 4 plastic bags  
Submitted by Detective BRIAN COEN of the Quincy Police Dept.

MARKED: [REDACTED]

Has been examined with the following results:

The substance was found to contain:

Heroin, (diacetylmorphine) as defined in Chapter 94 C, Controlled Substance Act, Section 31, Class A.

4 items were received and 1 was selected and analyzed.

NET WEIGHT: 0.09 grams (analyzed item only)

DEFENDANT: [REDACTED]

ASSISTANT ANALYST

Michael Lawler

Annie Dookhan

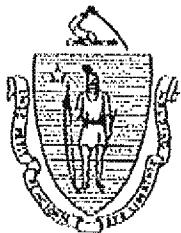
On this day, May 27, 2010, before me, the undersigned notary public, personally appeared the above signed subscriber(s), having proved to me through Department of Public Health documentation to be the person(s) whose name(s) is/are signed on this certificate and to be (an) assistant analyst(s) of the Department of Public Health, and who swore to me that the contents of this document are truthful and accurate to the best of his/her/their knowledge and belief.

	Zhi Yi Tan Notary Public Commonwealth of Massachusetts My commission expires on August 23, 2013
--	---

*Zhiyi*  
Zhi Yi Tan, NOTARY PUBLIC  
My commission expires on August 23, 2013

Chapter 111, Section 13 of the General Laws

This certificate shall be sworn to before a Justice of the Peace or Notary Public, and the jurat shall contain a statement that the subscriber is the analyst or assistant analyst of the department. When properly executed, it shall be prima facie evidence of the composition, quality, and the net weight of the narcotic or other drug, poison, medicine, or chemical analyzed, and the court shall take judicial notice of the signature of the analyst or assistant analyst, and of the fact that he/she is such.



The Commonwealth of Massachusetts  
 Executive Office of Health and Human Services  
 Department of Public Health  
 William A. Hinton State Laboratory Institute  
 305 South Street, Jamaica Plain, MA 02130  
 617-983-6622

DEVAL L. PATRICK  
 Governor  
 TIMOTHY P. MURRAY  
 Lt. Governor  
 JUDYANN BIGBY, MD  
 Secretary  
 JOHN AUERBACH  
 Commissioner

DATE RECEIVED: 11/05/2009  
 DATE ANALYZED: 05/17/2010

NO. [REDACTED]

I hereby certify that the substance  
 contained in 19 plastic bags  
 Submitted by Detective BRIAN CORN of the Quincy Police Dept.

MARKED: [REDACTED]

Has been examined with the following results:

The substance was found to contain:

Cocaine, a derivative of Coca leaves, as defined in Chapter 94 C, Controlled Substance Act, Section 31, Class B.

19 items were received and 1 was selected and analyzed.

NET WEIGHT: 3.33 grams (analyzed item only)

DEFENDANT: [REDACTED]

ASSISTANT ANALYST

Michael Lawler

Annie Dookhan

On this day, May 27, 2010, before me, the undersigned notary public, personally appeared the above signed subscriber(s), having proved to me through Department of Public Health documentation to be the person(s) whose name(s) is/are signed on this certificate and to be (an) assistant analyst(s) of the Department of Public Health, and who swore to me that the contents of this document are truthful and accurate to the best of his/her/their knowledge and belief.

	Zhi Yi Tan Notary Public Commonwealth of Massachusetts My commission expires on August 23, 2013
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